

**OCT 14 2003**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON  
U.S. COURT OF APPEALS**

ROBERT SANDMAN; PAULA  
SANDMAN,

Plaintiff-counter-claimant -  
Appellants,

v.

MOUNTAIN WEST FARM BUREAU  
MUTUAL INSURANCE COMPANY,

Defendant-counter-claimant -  
Appellee.

No. 02-35669

D.C. No. CV-01-00036-DWM

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Montana  
Donald W. Molloy, District Judge, Presiding

Submitted October 8, 2003\*\*  
Seattle, Washington

Before: D.W. NELSON, KOZINSKI, and McKEOWN, Circuit Judges.

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\* This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Robert and Paula Sandman, Montana homeowners, sued Mountain West Farm Bureau Mutual Insurance Co. for indemnification under their property insurance policy. The Sandmans sought recovery of the costs of moving their home to a stable location after suffering structural damages from the shifting of the land under and around their home. Their insurance policy excluded coverage of loss due to “earth movement.” The district court granted summary judgment to Mountain West and the Sandmans now appeal.

The Sandmans’ claim centers around their characterization of the cause of damage to the property as a “loss of stability” rather than “earth movement.” Because this distinction is without legal significance, and because the Sandmans have raised “no genuine issue as to any material fact,” Fed. R. Civ. P. 56(c), the district court’s judgment is

**AFFIRMED.**